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Attorney for Plaintiff  
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,	)	
	)	<b>DECLARATION OF TIMOTHY J.</b>
vs.	)	<b>HOGAN IN SUPPORT OF</b>
	)	<b>PLAINTIFF WAYNE BERRY'S</b>
HAWAIIAN EXPRESS SERVICE,	)	<b>MOTION IN LIMINE TO</b>
INC., a California corporation; et al.	)	<b>EXCLUDE TESTIMONY OF</b>
	)	<b>JEFFREY KINRICH AND</b>
	)	<b>EVIDENCE OF AND ANY</b>
	)	<b>REFERENCE TO THE OPINIONS</b>
Defendants.	)	<b>CONTAINED IN THE SECOND</b>
	)	<b>SUPPLEMENTAL EXPERT</b>
	)	<b>REPORT OF JEFFREY KINRICH</b>
	)	<b>(Plaintiff No. 1); EXHIBITS "1" and</b>
	)	<b>"2"</b>

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**DECLARATION OF TIMOTHY J. HOGAN  
IN SUPPORT OF PLAINTIFF WAYNE BERRY'S MOTION IN  
LIMINE TO EXCLUDE TESTIMONY OF JEFFERY KINRICH  
AND ANY EVIDENCE OF AND ANY REFERENCE TO THE OPINIONS**

I, TIMOTHY J. HOGAN, hereby make the following declaration under penalty of law:

1. I am an attorney with the law firm of Lynch Ichida Thompson Kim & Hirota, which represents Plaintiff in the above-captioned matter.

2. Attached hereto as Exhibit "1" is a true and correct copy of the Court's Minute Order Dated January 24, 2006.

3. In the status conference I informed the Court and the PCT that Mr. Ueno would likely not file a supplemental report. Consistent with that, no supplemental Ueno report was filed.

4. On two occasions I requested the working papers and correspondence from the PCT related to this new report but have not received any materials in response.

5. Attached hereto as Exhibit "2" is a true and correct email from me to Mr. Capozzola confirming that the PCT was withholding documents related to Kinrich's report.

6. Upon Mr. Ueno's filing of his supplemental report, I made the materials immediately available to opposing counsel without the need to serve a

formal discovery request.

Dated: Honolulu, Hawai'i, February 22, 2006.

/s/ Timothy J. Hogan  
TIMOTHY J. HOGAN